

Ser. No. 10/091,266
Resp. dated June 27, 2008
Reply to Office Action of December 12, 2007

PATENT
PF010020
Customer No. 24498

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Remarks/Arguments

Claims 1, 2 and 7-14 are pending. Claims 1, 2 and 7-14 stand rejected.

Claims 1, 8 and 11 are independent claims.

Rejection of claims 1, 7-9, 11 and 14 under 35 USC 103(a) as being anticipated by Higgins et al. (US Pat No 6,587,480, hereinafter Higgins) in view of Duso et al. (US Pat No 6,625,750, hereinafter Duso).

Applicants submit that for at least the reasons discussed below present claims 1, 7-9, 11 and 14 are patentably distinguishable over the teachings of Higgins and Duso.

Applicants' claim 1 includes: "causing the client device to specify a starting point, within said file, from which the transfer is to be carried out."

On page 3 of the Office Action it is acknowledged that Higgins fails to disclose the above mentioned features of claim 1. The Office turns to Duso col. 35, lines 18-26; col. 34, lines 48-62; and col. 25, lines 60-65 as allegedly showing the missing features.

The Office also points to the same sections of Duso as allegedly showing the claimed limitation of "causing the client device to request initiation of the file transfer from the starting point."

Applicants submit that Duso, in fact, does not provide the alleged teachings. Duso relates to a SAN type storage system for audio/video files. Requests can be processed on this system through a specific protocol called CMFAP. This protocol, as defined in col. 34, lines 48-62 of Duso, apparently authorizes VCR type functions on a stream of data. The functions all relate to the stream of data and it's

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progression. For example, Duso in col. 34 describes: opening and closing streams, listing all active streams, recording, playing, and redirecting an active stream. However, there is nothing in col. 34 which teaches or suggests the above mentioned features of claim 1.

In col. 35, lines 18-26 of Duso the "start record" command is described as a client request for beginning a recording of continuous data received by the assigned stream server. Duso only states that the command must include a "handle" to identify the stream for which recording is to begin. There is nothing in Duso to suggest the presence of a starting point within a file, explicitly or implicitly, and even less a "*a starting point, within said file, from which a transfer is to be carried out.*" The "start record" command of Duso does not imply nor suggests the presence of "a starting point, within said file" as recited in applicants' claim 1.

Duso apparently describes in col. 25, lines 57-64 that RAM is allocated and loaded with the data for a movie so that when a client request for a movie is received, the client can be immediately supplied with a video stream starting at any desired time or position in the movie. While Duso suggests that a video stream starting may be supplied starting at some position in the movie, a study of Duso cols. 38 and 39 reveals that the stream must be in a "playing state," that is the stream must have been opened (started at the beginning). According to col. 39, lines 19-23, if in the playing state and the "paused" state is then activated, a "seek" command is available which positions the stream according to the seek argument. This allows Duso to move to some position in the movie. Thus, Duso is only moving from the start of the stream to some position and is describing commands where playback is referenced to the current point related to the progression in the stream.

This is distinguishable from applicants' claimed invention since the seek command of Duso does not specify "a starting point, within said file, from which a

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transfer is to be carried out" because the starting point in Duso is the beginning of the stream and the seek command only allows the positioning of the current play position of the stream to a position specified by the seek augments (col. 39, lines 31-26, Duso).

The Duso solution relates to the use of a stream (a succession of data elements made available over time). In contrast, one skilled in the art would recognize applicants' file, for example as described in Wikipedia (<http://www.wikipedia.org>), as "A computer file is a block of arbitrary information, or resource for storing information, that is available to a computer program and is usually based on some kind of durable storage. A file is durable in the sense that it remains available for programs to use after the current program has finished." Therefore, Duso is different from and does not suggest the features of claim 1 as relied upon by the Office.

In summary, the combination of Higgins and Duso does not teach or suggest each and every element of claim 1 including "causing the client device to specify a starting point, within said file, from which the transfer is to be carried out; and causing the client device to request initiation of the file transfer from the starting point." Therefore, it is respectfully requested that the rejection be withdrawn.

Independent claims 8 and 11 include at least, either of, the client device specifying the starting point (claim 8) or the request specifying the starting point (claim 11). Thus, applicants submit that claims 8 and 11 are patentably distinguishable over the combination of Higgins and Duso for at least the same reasons as those discussed above with respect to claim 1.

Applicants' dependent claim 7 recites: "said starting point is specified in the request for opening the connection." Duso cols. 24, 25 and 34 do not suggest the claimed features. Duso only states that the CMFAP protocol is useful for opening

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and closing streams, listing all active streams, record, play, and redirecting an active stream. There is no suggestion that a starting point is specified in the request for opening the connection, as claimed by applicants.

For at least the foregoing reasons, it is respectfully requested the rejection be withdrawn because Higgins and Duso fails to teach or suggest all the features of claim 7.

Dependent claims 9 and 14 also include at least the distinguishing features of the respective base claim from which they depend, plus the additional features recited in claims 9 and 14. Thus, their rejection should likewise be withdrawn.

Rejection of claims 2, 10, 12 and 13 under 35 USC 103(a) as being unpatentable over Higgins, Duso and further in view of Zondag (US Pat No 6,389,466)

It is admitted in the Office Action that the combination of Higgins and Duso fails to teach or suggest the features recited in each of the dependent claims 2, 10, 12 and 13. Zondag is only cited for showing the features of these dependent claims.

However, Zondag fails to cure the deficiencies of Higgins and Duso with regard to the features of the respective base claims from which these claims depend. Because Zondag fails to teach the lacking elements of Higgins and Duso, the combination of Higgins, Duso and Zondag likewise fails to teach or suggest all the claimed features as required by the MPEP to support an obviousness rejection.

Accordingly, without conceding any statements or waiving any arguments concerning these dependent claims, each claim is allowable by virtue of its dependency, as well as the additional subject matter recited therein.


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Conclusion

Having fully addressed the Examiner's rejections it is believed that, in view of the preceding remarks, this application stands in condition for allowance. Accordingly then, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the applicant's attorney at (609) 734-6815, so that a mutually convenient date and time for a telephonic interview may be scheduled.

Respectfully submitted,
Gael Mace et al.



Paul P. Kiel
Attorney for Applicants
Registration No. 40,677

THOMSON Licensing Inc.
PO Box 5312
Princeton, NJ 08543-5312

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